

# Calendar No. 1595

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SENATE

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REPORT  
No. 1532

## LEILA BERNSTORFF GRAUERT

JUNE 8, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H.R. 5530]

The Committee on the Judiciary, to which was referred the bill (H.R. 5530) for the relief of Leila Bernstorff Grauert, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of the bill is to provide that Leila Bernstorff Gauert shall, for the purposes of subsection (g) of section 201 of the Nationality Act of 1940, as amended, be held to have been a resident of the United States for at least 5 years after she reached the age of 16.

#### STATEMENT OF FACTS

The beneficiary was born in the United States on January 21, 1917 and resided in the United States continuously until the summer of 1937 when she went to Germany and was married there to a German national. Their plans to return to the United States were delayed, first for the settlement of the estate of the beneficiary's father-in-law and then because of World War II. The beneficiary was unable to confer U.S. citizenship on her two German-born children because she had only 4½ years residence in the United States after reaching the age of 16, instead of the 5 years as required by the Nationality Act of 1940.

A letter dated June 16, 1959, to the chairman of the Committee on the Judiciary of the House of Representatives from the Deputy Attorney General reads as follows:

JUNE 16, 1959.

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 5530) for the relief of Peter Clemens August Grauert and Hans Herbert Grauert.

The bill would provide that Leila Bernstorff Grauert shall be considered to have been a resident of the United States for at least 5 years after she attained the age of 16 years. The purpose of the legislation is to render her two sons eligible for the return of certain property vested under the Trading With the Enemy Act.

The records of the Department of Justice disclose that, by vesting orders Nos. 18314, executed April 20, 1951, and 18408, executed August 31, 1951, the Attorney General vested the interest of Peter Clemens August Grauert and Hans Herbert Grauert in two trusts created by their maternal grandmother, Julie Amman Bernstorff. The claimants are contingent remaindermen of one-fifth of 70 percent of the corpus of one of the trusts with a possibility of each taking one-fifth of 90 percent of such corpus, and are also vested remaindermen of one-third of the corpus of the second trust, defeasible on failure to survive the primary and secondary life tenants. The property in the two trusts has an estimated value of approximately \$1 million but, inasmuch as the life tenants thereof are still alive, nothing is yet payable to the Office of Alien Property under its vesting orders.

Mrs. Grauert, an American citizen, was born in the United States on January 21, 1917. On July 17, 1937, she married Dr. Hans Grauert, a native-born citizen of Germany and after the marriage the couple resided together in Germany. The beneficiaries of this bill are two of the children of this marriage. Both were born in Frankfurt, Germany, Peter on January 31, 1941, and Hans on August 31, 1942. They came to the United States in 1946 with their father, Dr. Grauert, and apparently acquired U.S. citizenship upon their father's naturalization on November 21, 1949.

Claims were filed with the Office of Alien Property on behalf of these two claimants seeking the return of their trust interests. Since their mother had failed to reside in the United States 5 years later reaching her 16th birthday, it was held that her two sons were not citizens of the United States at birth and were thus disqualified for return under section 32(a)(2)(D) of the Trading With the Enemy Act. Accordingly the claims were dismissed. Enactment of the bill here under consideration would give the claimants the status of a U.S. citizen at birth and thus qualify them for return of the vested property.

Section 39 of the Trading With the Enemy Act, as amended, specifically prohibits the return of vested property to any former owner who was a national of Germany, with the exception of those persons who qualify for a return under section 32 of the act which relates to persons who were persecuted. Enactment of this bill would single out these two claimants for highly preferential treatment by

granting to them a right denied to all others similarly situated and the Department of Justice is opposed to the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

LAWRENCE E. WALSH,  
*Deputy Attorney General.*

Congressman Byron G. Rogers, the author of the bill, appeared before a subcommittee of the Committee on the Judiciary of the House of Representatives and testified in support of his bill, as follows:

Mr. Chairman, Peter Clemens August Grauert and Hans Herbert Grauert, ages 18 and 17, were born abroad as children of a native-born Caucasian mother and a German father. The entire family now resides in the United States; the father, a physician, having been naturalized some time ago.

Pursuant to the Nationality Act of 1940 that was applicable at the time of their birth, foreign-born children of one American parent are citizens if the said parent resided 10 years in the United States, 5 of which were after attaining age of 16.

The mother, Leila Bernstorff Grauert, was born in New York on January 21, 1917, as an American citizen of the Caucasian race. She lived in the United States all her life. In the spring of 1937 she met Dr. Grauert, who was then engaged in postgraduate studies in New York. They became engaged, intending to marry in New York and, also, to settle there. In April 1937, Dr. Grauert was called home because of the grave illness of his father, a physician in Hamburg, Germany, who died shortly thereafter. Before leaving, Dr. Grauert obtained two affidavits of support for the purpose of immigration. He left clothing and personal property in the apartment of his prospective wife and parents-in-law until his return.

On a summer trip taken with her family to Europe, Leila Bernstorff decided that the marriage should take place right away. They were married at Hamburg, Germany, on July 17, 1937. It was still the intention of both the bride and Dr. Grauert to return to the United States forthwith. The immediate return of the couple was delayed because Dr. Grauert had to attend to settling the estate of his father.

Mrs. Grauert had neither her trousseau with her, nor any winter clothing. She was angry at the lawyer of the estate because of the delay, and wanted to return to the United States rather yesterday than today. Dr. Grauert refused to take over the large practice of his father because of his determination to go back to the United States and he refused a similar opportunity offered by an uncle in Berlin for the same reason.

Finally, in December 1937, Mrs. Grauert took a ship to New York to be with her father for his 60th birthday, to prepare for settlement, and to arrange for an apartment, while her husband was to follow her. By May of 1938, it had become obvious that her husband could still not follow and

Mrs. Grauert went back to Germany, because she was pregnant and wanted to have her child in the presence of her husband. This first child was born in Frankfurt, Germany in May 1938.

In November 1938, they tried in vain to get an exit permit. In January 1938, Mrs. Grauert went to New York a second time for a few months. The Grauerts sent their first and then only child (first of their five children) at the age of 1 to the United States. The child never returned to Germany. The family came to the United States after the war as soon as they could and are still residing here.

On August 20, 1951, and on August 31, 1951, the Office of Alien Property promulgated vesting orders 18314 and 18408, respectively, vesting the interest of these two minors in two trusts that were set up by their American grandfather and grandmother. Under these trusts, the minors will become distributees after expiration of the life estate of their mother and after other contingencies have been fulfilled. Nothing has been paid to or collected by the Government, nor is anything likely to come into the possession of the Government under the aforementioned vesting orders for quite a number of years to come for the reason that the mother is enjoying all the rights and benefits of a life estate.

Were minor children recognized as having been American citizens at the time of vesting, i.e., were they recognized as citizens by birth, then the return of the expectant estates to them would have been a foregone conclusion under the law as it stands. In view of this, the minor children have tried to have their citizenship by birth determined by declaratory judgment. The petition was denied on jurisdictional grounds; to wit, no justiciable issue of controversy.

Thus, the return of the future interest to these minor children by this legislation is a logical consequence of the recognition of their citizenship at birth.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 5530) should be enacted.

